IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 13TH MARCH 2007 / 22ND PHALGUNA 1928

Crl.Rev.Pet.No. 400 of 1998()

CRRC.7/1997 of SESSIONS COURT, ALAPPUZHA
CC.44/1996 of JUDL.MAGISTRATE OF FIRST CLASS, HARIPAD
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REVN. PETITIONER:

SULAIMAN, S/O. KOCHUNNI,
KUNNUKARA P.O., ERNAKULAM DIST.

BY ADV. SRI.T.H.ABDUL AZEEZ
SRI.P.K.MEETHIYAN KUNJU

RESPONDENTS:

STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY /

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 13/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL. M.P. NO. 2101/1998 IN CRL.R.P. NO. 400/1998

DISMISSED

13.03.2007 SD/- K.R. UDAYABHANU, JUDGE.

/True Copy/

P.A to Judge.

K.R. UDAYABHANU, J

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CRL. R.P. NO. 400 OF 1998

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Dated this the 13th day of March 2007

O R D E R

The revision petitioner is the accused in C.C. No. 44/96 with respect to the offence under section 279, 304 A of the Indian Penal Code and section 134 (a) of Motor Vehicles Act on the allegation that the bus driven by the accused knocked down a person who was standing on the road margin. The trial court after considering the evidence adduced in the matter acquitted the accused. The Sessions Judge in suo motu revision took up the matter and disagreed with the order of the trial court and set aside the same and remanded the matter to the court below for trial and disposal as per the directions issued in the order of the Sessions Judge.

2. The contention of the revision petitioner is based on the decision in **John Samuel v. State of Kerala and another** (1985 KLT 902) which has clarified that the Sessions Judge has no power to take up suo motu revision on the strength of section

399 Cr.P.C. In view of the law laid down by this court in the above decision, the order of the Sessions Judge in taking of suo motu revision and setting aside the order of the trial court is beyond the powers of Sessions Judge. In the circumstances, the order of the Sessions Judge in Crl. R.P. No. 7/97 is herewith set aside. The accused/revision petitioner shall stand acquitted as per the order of the trial court.

K.R. UDAYABHANU, JUDGE.

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